IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO: 4798 of 2005

Between:

Chavalam Venkateswarlu Dora S/o.Pedanaganna Dora
R/o.Kamarajupeta Village, Gokavaram Mandal, East Godavari District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Tribal welfare Department

rep. by its Secretary, Secretariat, Hyderabad.
2 The District Collector Kakinada, East Godavari District.
3 The Special Deputy Collector (Tribal Welfare), Rampachodavaram,
East Godavari District.
4 The Mandal Revenue Officer, Gangavaram Mandal,

East Godavari District.
5 Korukonda Achiraju, S/o.Sanyasi Rao,
R/o.Kamarajupeta Village, Gokavaram Mandal, East Godavari District.
6 Karam Boranna Dora, S/o.Not known
Major, Yamanapalli, East Godavari, District.
7 Bodda Krishna, S/o.Not known,
R/o.Kamarajupeta, Godavaram Mandal, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus by declaring the Notice in L.T.R.P.No.229/04 dt.14.12.2004 dt.14.12.2004 issued by the 3rd respondents illegal, arbitrary and violative of Article 14 and 21 of the Constitution of India and also violative of his own orders dt.22.9.2004 in L.T.R.P.No.140/04 and A.P. Scheduled Areas Land Transfer Regulations, 1959 as amended by 1/1970 and consequently direct the respondents to restore the P.S. Land to the petitioner by implementing the orders passed by the

3rd respondent in L.T.R.P.140/04 dt.22.9.2004 and to pass such other order or orders.

Counsel for the Petitioner: MR.V.AJAYAKUMAR

Counsel for the Respondent Nos.1 to 4: GP FOR SOCIAL WELFARE

The Court at the stage of admission made the following:

ORAL ORDER:

This writ petition is filed seeking a Mandamus to declare the Notice in L.T.R.P.No.229/04, dated 14.12.2004 issued by the 3rd respondent as illegal and arbitrary.

Heard the learned counsel for the petitioner and the learned Government Pleader for Social Welfare for the respondents 1 to 5 and perused the material on record.

L.T.R.P.No.229 of 2004 is a notice issued under Section 3 of the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1 of 1959 as amended under Regulation 1/1970.

The learned counsel for the petitioner has contended that in respect of the same survey number and the same extent of land, the 3rd respondent-Special Deputy Collector, in his proceedings, L.T.R.P.No.140 of 2004 dated 22.9.2004 ordered eviction of the non-tribal i.e. 5th respondent herein from the schedule property and for restoration of the same to the tribal petitioner and therefore, it amounts to *res judicata*.

The parties in the impugned notice dated 14.12.2004 and in the earlier order, dated 22.9.2004 are different, therefore, the question of *res judicata* does not arise. In any view of the matter, the same has to be decided by the Deputy Collector in L.T.R.P.No.229 of 2004. It is only a notice directing the petitioner-6th respondent herein to appear before the Tribunal. Therefore, this order does not suffer from any legal infirmities so as to call for interference by this Court. The jurisdiction of the authority, who issued the notice is not under

challenge.

Having regard to the facts and circumstances of the case, the writ petition is disposed of leaving open to the petitioner all the contentions raised in this writ petition. In the circumstances of the case, there shall be no order as to costs.

_____

(K.C. BHANU, J.)

24-03-2005

bcj

To

_

1 The Secretary, Government of Andhra Pradesh, Tribal welfare

Department, Secretariat, Hyderabad.
2 The District Collector Kakinada, East Godavari District.
3 The Special Deputy Collector (Tribal Welfare), Rampachodavaram,
East Godavari District.
4 The Mandal Revenue Officer, Gangavaram Mandal,

East Godavari District.
5 Two C.Cs. to G.P. for Social Welfare, High Court Buildings,

High Court of A.P., Hyderabad (OUT)

6 2 CD copies